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March 29, 1962
Letter Opinion No. 62-39-L

REQUESTED BY: Hon. Buell E. Tade
Chairman, Arizona Racing Commission
707 $\frac{1}{2}$ W. Thomas Road
Phoenix, Arizona

OPINION BY: ROBERT W. PICKRELL
The Attorney General

QUESTION: Can the Arizona Racing Commission under the factual situation contained in the file forwarded to your office legally amend the original racing permit issued to the Yavapai Turf Club, Inc. in 1961-1962 to include the date June 30, 1962 without giving fifteen (15) days' notice of hearing to all permittees holding a permit during this current year?

CONCLUSION: Yes.

This office would like to stress the fact that the conclusion rendered above depends almost entirely upon the factual situation presented. Briefly that situation is as follows:

The original application for a permit for the fiscal year 1961-1962 did include a request for a racing day on June 30, 1962. This procedure was specifically allowed by the 1960 amendment to A.R.S. §5-110 (C) reading in part as follows:

"However, a meeting may be split into two periods if the first period includes any day in the first week in July of the fiscal year for which the permit is granted and the second period includes any day in the last week in June of the same fiscal year."

It is, therefore, apparent that the original application and the notice prepared in connection therewith did put all interested parties on notice of the fact that the Yavapai Turf Club did wish at least one racing day in June of 1962. The records also indicate that no interested party had any objection to this date. However, at the

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meeting of May 23, 1961, the Commission in acting on the permit application and at the request of the permittee felt that issuing the permit for June 30, would require the permittee to keep its books open until June 30, following the last day of the first period which ended on September 4th. It was felt that this was rather cumbersome and it was then the opinion of the Commission that the June 30, should be excluded from the 1961-1962 period and included in the 1962-1963 period. It later became apparent that this procedure would be incorrect as it would involve the issuance of permits covering dates in two fiscal years. It, therefore; has been the express desire of both the Commission and the permittee to amend the 1961-1962 permit to include this one day in June of 1962.

There is nothing in the statute which prohibits the Commission from amending a permit once it is issued. Under normal administrative procedure, an agency can amend permits, licenses or certificates upon a showing of good cause and upon a finding that parties who might be affected either have been notified or have expressed they have no objection. In our present situation here, all other parties were notified of the original intent to include June 30, and to require a new notice and hearing would seem a superfluity and unnecessary requirement.

Therefore, it is our opinion that providing the proper bond and deposit are in effect covering the June 30, date, and as long as the fiscal records reflect the June 30, date as being a part of this fiscal year, there can be no legitimate objection to the amendment of the permit without notice.

ROBERT W. PICKRELL
The Attorney General

PHILIP M. HAGGERTY
Assistant Attorney General

PMH:eh/dd